

1 In accordance with the Court's Standing Order and Civil Local Rule ("L.R.")
2 16-9, the parties respectfully submit this First Joint Case Management Conference
3 Statement for consideration by the Court at the Initial Case Management Conference set for
4 May 22, 2008.

5 **1. Jurisdiction and Service:**

6 Plaintiff brings this lawsuit pursuant to 42 U.S.C. Section 1983 to redress the
7 alleged deprivation of rights secured to plaintiff under the United States Constitution,
8 including the First, Fifth, and Fourteenth Amendments. Jurisdiction is conferred on this
9 Court by 28 U.S.C. section 1343(a)(3) and 1343(a)(4), which provides for original
10 jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. Section 1983.
11 Jurisdiction is also conferred by 28 U.S.C. Section 1331(a) because claims for relief derive
12 from the United States Constitution and the laws of the United States.

13 Plaintiff has served all defendants in this action. Defendants City of Santa
14 Rosa, Officer Brad Connors (sued herein as Brad Connors), Officer Jeneane Kucker (sued
15 herein as Officer Hood), and Officer Jon Fehlman (sued herein as John Felman)
16 (collectively, "City Defendants") agreed to waive service on March 14, 2008. Defendants
17 County of Sonoma and Jerry Newman (the "County Defendants") were personally served
18 on April 10, 2008.

19 **2. Facts**

20 This case was filed by plaintiff Oralea Anderson-Francois, a licensed foster
21 mother for approximately twenty-five years, who alleges the unlawful removal of two of her
22 adopted children, E.A. (a female, DOB 6-29-95), and F.A. (a male, DOB 1-6-92), in the
23 absence of any immediate risk of serious bodily injury in violation of her rights of familial
24 association under the 14th Amendment of the U.S. Constitution.

25 Defendant Jerry Newman is a Social Worker employed by the County of
26 Sonoma. Defendants Connors, Felman, and Hood are police officers employed by the City
27 of Santa Rosa.

1 Plaintiff alleges that on December 15, 2005, two of plaintiff's older adopted
2 children who were not living in plaintiff's home, reported to Child Protective Services that
3 they had been physically abused by plaintiff. One week later, on December 22, 2005, Mr.
4 Newman interviewed plaintiff, F.A. and E.A. Plaintiff and E.A denied the allegations of
5 physical abuse. Later, Newman met with E.A. again at school and she denied any
6 knowledge of physical abuse. On January 17, 2006, Newman re-interviewed F.A. at his
7 school and F.A. denied any knowledge of physical abuse. On February 1, 2006, the
8 defendants removed E. A and F. A from plaintiff's residence without a warrant and without
9 consent. F.A. and E.A were brought to a shelter and have remained out of plaintiff's
10 custody and in a group home setting ever since.

11 The County Defendants allege that after the two children reported to CPS
12 that Plaintiff had physically abused them, Social Worker Newman conducted a thorough
13 investigation. Through this investigation, including interviews of Plaintiff's children,
14 Mr. Newman alleges that he learned that Plaintiff had inflicted ritualistic and repeated
15 illegal child abuse on her children, including on at least F.A. Such alleged abuse included
16 whippings with an electrical extension cord and a belt, emotional abuse, and, in at least one
17 instance, threatening a child by holding a gun to her head.

18 The City Defendants assert that the Police Department was asked by CPS to
19 observe interviews of the children, and heard the minor children describe physical abuse
20 that they had received. Detective Connors agreed with CPS Social Worker Newman that
21 removal was appropriate under the circumstances. Officer Hood's involvement was limited
22 to providing transportation after the decision to remove the children was made.

23 The County Defendants allege and assert that removal of E.A. and F.A. was,
24 therefore, appropriate, warranted, and legal under the circumstances.

25 Neither Social Worker Newman nor anyone else from the County of Sonoma
26 was present when the removal occurred.

1 After the removal of E.A. and F.A., juvenile dependency proceedings were
2 timely filed with the Sonoma County Superior Court (the "Dependency Proceedings"),
3 which court issued certain orders with respect to E.A. and F.A. Defendants allege that
4 further detention of E.A. and F.A. was (and continues to be) in accordance with the orders
5 of the court in the Dependency Proceedings.

6 The case is at its inception. The parties are exploring the extent to which
7 there may be factual issues in dispute.

8 **3. Legal Issues**

9 A. Plaintiff's Statement of Legal Issues: Plaintiff respectfully suggests
10 that the legal issues include, but are not limited to:

11 1. Whether plaintiff's constitutional rights to familial association were
12 violated when defendants removed F.A. and E.A. from her care on February, 1, 2006.

13 2. Whether plaintiff's constitutional rights to familial association were
14 violated by the continued detention of F.A. and E.A. after their removal from plaintiff's
15 care on February, 1, 2006.

16 3. Whether any or all of the actions of the defendants are protected from
17 liability by the application of any immunity, including statutory, absolute, or qualified
18 immunity.

19 B. Defendants' Statement of Legal Issues: Defendants respectfully
20 suggest that, in addition to the legal issues Plaintiff identified, the legal issues include, but
21 are not limited to:

22 1. Whether the County Defendants participated in the removal of E.A.
23 and F.A. when neither Social Worker Newman nor anyone else from the County was
24 present at the time and place of the removal.

25 2. Whether the City Defendants were entitled to rely upon information
26 provided to them by the County Defendants.

1 3. Whether Defendants, or any of them, are entitled to qualified
2 immunity.

3 4. Whether the Plaintiff can establish *Monell* claims.

4 5. Whether the removal was appropriate and legal because of the
5 imminent risk of injury to the children or otherwise.

6 6. Whether the continued detention of the children was appropriate and
7 legal because of the risk of injury to the children, the lawful orders of the Sonoma County
8 Superior Court, or otherwise.

9 7. Whether orders that were entered in the dependency proceedings,
10 including without limitation the rulings of the Sonoma County Superior Court and the
11 California Court of Appeal, bar Plaintiff's claims or some of them based on the doctrines of
12 res judicata, collateral estoppel, or otherwise.

13 8. Whether Plaintiff's conduct relating to the Dependency Proceedings
14 bars her claims in this case or some of them.

15 9. Whether Plaintiff suffered any damages and, if so, whether she
16 mitigated her damages.

17 10. Whether Plaintiff's second claim for relief is barred, as a matter of
18 law, based on Ninth Circuit law at the time of the custody hearing in the dependency
19 proceedings.

20 4. Motions

21 There are no pending motions at this time. The County Defendants anticipate
22 filing dispositive motions under Rule 56. The City Defendants will likely file a Motion for
23 Summary Adjudication or Motion for Summary Judgment.

24 5. Amendment of Pleadings

25 Additional amendments of the pleadings and/or the joinder of additional
26 parties are not contemplated at this time.

1 **6. Evidence Preservation**

2 Plaintiff's counsel states that they have requested that their client to preserve
3 evidence relevant to the issues reasonably evident in this litigation.

4 Defendants' counsel have requested that their clients preserve evidence
5 relevant to the issues reasonably evident in this litigation.

6 **7. Disclosures**

7 Defendants request a reasonable extension of time to serve initial disclosures.
8 Many of the documents that are relevant to the facts and issues in this case are confidential
9 and defense counsel does not yet have access to them because of the protections for juvenile
10 case records contained in Welfare & Institutions Code Section 827 and the protections for
11 juvenile police records contained in Section 827.9. On or about April 28, 2008, Plaintiff's
12 counsel filed with the Sonoma County Superior Court a petition under Section 827 for the
13 release of the juvenile case records; the County Defendants filed a joinder in the petition
14 and the City will be filing a joinder. No hearing has yet been set on the petition. The
15 parties intend to file a similar petition to obtain the release of the juvenile police records
16 under Section 827.9.

17 The records of the dependency proceedings are voluminous and contain much
18 information that will be relevant for the initial disclosures. Therefore, the parties request an
19 extension of 60 days from the date the juvenile case records and law enforcement records
20 are released in which to serve their initial disclosures.

21 **8. Discovery**

22 No discovery has been conducted at this time. At this early stage,
23 particularly before a review of the juvenile case records and law enforcement records, the
24 parties are unaware of whether there will reasonably be a need to change the standard
25 discovery limits on the numbers (or length) of depositions, interrogatories, requests for
26 documents, and/or requests for admissions provided for in the Federal Rules of Civil
27

1 Procedure and/or local rules. All parties reserve the right to seek changes and/or additional
2 discovery should the need arise.

3 **9. Class Actions**

4 None.

5 **10. Related Cases**

6 There are no related cases, as that term is used in the Local Rules. However,
7 the events that occurred in the Dependency Proceedings are relevant to the facts and issues
8 in the instant case. On May 1, 2008, the County Defendants filed a Notice of Pendency of
9 Other Action or Proceeding under Rule 3-13 of the Local Rules.

10 **11. Relief**

11 Plaintiff seeks monetary damages and is hopeful in negotiating significant
12 changes in the conduct of business by the Human Services Department of the County of
13 Sonoma, as well as punitive damages and attorney fees, all in amounts to be proven at trial.

14 **12. Settlement and ADR**

15 The parties have not discussed alternative dispute resolution mechanisms at
16 this time. Plaintiff and each of the Defendants filed an ADR Certification pursuant to
17 Civ. L.R. 16-8(b) stating that they and their counsel have read the brochure entitled
18 "Dispute Resolution Procedures in the Northern District of California," discussed the
19 available dispute resolution options provided by the Court and private entities, and have
20 considered whether this case might benefit from any of the available dispute resolution
21 options.

22 **13. Consent To Magistrate For All Purposes**

23 On May 1, 2008, The County Defendants timely filed a Declination to
24 Proceed before a Magistrate Judge and Request for Reassignment to a United States District
25 Judge.

26 Plaintiff does not join the County Defendants in that motion and, therefore,
27 consents to assignment of this case to a magistrate judge for all purposes.

1 **14. Other References**

2 None.

3 **15. Narrowing of Issues**

4 It is premature to consider the narrowing of issues at this time.

5 **16. Expedited Schedule**

6 The parties do not believe that an expedited schedule is appropriate for this
7 case

8 **17. Scheduling**

9 The parties request a deferral of scheduling until the receipt of juvenile
10 records/documents and law enforcement records/documents and a reasonable period of time
11 to allow for the review of these materials. The parties request a further Case Management
12 Conference in 90 to 120 days.

13 **18. Trial**

14 Each party has demanded a trial by jury. For the reasons discussed above,
15 the parties believe it is premature to submit a proposed trial schedule at this time. The
16 parties request that the Court set a proposed schedule regarding pre-trial dates at a further
17 Case Management Conference to be held in approximately 90 to 120 days, at which time the
18 dates for trial can be more reasonably assessed.

19 **19. Disclosure of Non-Party Interested Entities or Persons**

20 Pursuant to Civil L.R. 3-16, plaintiff states, on information and belief, that
21 the following listed persons, associations of persons, firms, partnerships, corporations
22 (including parent corporations) or other entities (i) have a financial interest in the subject
23 matter in controversy or in a party to the proceeding, or (ii) have a non-financial interest in
24 that subject matter or in a party that could be substantially affected by the outcome of this
25 proceeding: None.

26 **20. Other Matters**

27 None.

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2 Dated: May 15, 2008

Respectfully submitted,

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15 Dated: May 15, 2008

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1 Dated: May 15, 2008

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ORALEE ANDERSON-FRANCOIS)	Case No. C-08-00724 WHA
)	
Plaintiffs,)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
COUNTY OF SONOMA, CITY OF)	
SANTA ROSA, JERRY NEWMAN, BRAD)	
CONNORS, OFFICER HOOD, JOHN)	
FELMAN, Does 1-25 Inclusive)	
)	
)	
Defendant.)	
)	

I, Robert Newman, declare under penalty of perjury that the following is true and correct:

I am a citizen of the United States; am over the age of 18 years; am employed by THE FURTH FIRM LLP, located at 225 Bush Street, 15th Floor, San Francisco, California 94104, whose members are members of the State Bar of California and at least one of whose members is a member of the Bar of each Federal District Court within California; am

1 not a party to the within action; and that I caused to be served a true and correct copy of the
2 following documents in the manner indicated below:

- 3 1. JOINT CASE MANAGEMENT CONFERENCE STATEMENT NO. 1
4 2. CERTIFICATE OF SERVICE.



By Facsimile Transmission to the Party Listed Below:

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13 Executed on May 15, 2008, at San Francisco, California.

14 Signed /s/ Robert Newman
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